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*McClaghry*, 183 U. S. 365, 395. 1 BISHOP, CR. LAW, § 1051. In the instant case, however, the court throws some doubt on the correctness of the decisions in *United States v. McKee*, 4 Dill. 128, 26 Fed. Cas. No. 15688, and *Ex parte Joyce*, 13 Fed. Cas. No. 7556. In the *McKee* case, in which it was held that the former conviction of defendant was a bar, the overt acts charged in the indictment for conspiracy on the former trial were the same acts for which a penalty is later sought to be recovered; clearly the evidence necessary to convict on the charge of conspiracy included evidence sufficient to sustain the action for the penalty. In the *Joyce* case, in which it was held that one could not be punished both on a charge of conspiracy to defraud the United States and also on a charge of failing to report a known violation of the revenue law, where such violation was the outcome of the very conspiracy in which defendant took part; there the evidence to prove the conspiracy must necessarily have proved the gist of the second crime, that is, knowledge of the attempt to defraud. Under the rule stated above, both of these cases would seem to be correctly decided and not to be in conflict with the principal case.

CONSTITUTIONAL LAW—MUNICIPAL CORPORATIONS—SALARIES — PENSION FUND.—The legislature of Illinois passed an act which went into effect, July 1, 1911, for the formation of a civil service pension fund, by the retention of \$2.00 per month from the salary of all civil service employees. (Laws 1911, p. 158). Petitioner, a stenographer, at a salary of \$80 per month secured by contract for a year from Jan. 1, 1911, on appeal raises the question of the constitutionality of the act. *Held* one has no property right in an unearned salary and even though the petitioner has no vested interest in the fund, he is not deprived of property without due process of law. The legislature may diminish the salary or abolish the office as the Civil Service Act confers this power. *Hughes v. Traeger*, (Ill. 1914), 106 N. E. 431.

Admitting the general rule that one can not have a property right in an unearned salary, it would seem that if the amount is deducted by the month at the rate of \$2 per month, as the act provides, there would be a property right in the earned salary at the end of each month, the contract of employment for a fixed sum being untouched by the law. This presents a different situation from that presented if the legislature had simply reduced the salary of all civil service employees and provided that the sum of \$2 per month for each employee should be set aside into a fund. The correct reason for the decision seems to be that it is a taking of property, but by due process, inasmuch as it was considered for the public benefit. *Davidson v. New Orleans*, 96 U. S. 97; *Hager v. Reclamation District*, 111 U. S. 701; *Marchant v. U. S.* 153 U. S. 380. In *State ex rel Ward v. Hubbard*, 22 Ohio C. C. (aff'd without opinion, 65 Ohio St. 574) and in *State v. Kurtz*, 21 Ohio C. C. 261, precisely similar questions under substantially like laws came before the court and in each instance the law was declared unconstitutional on grounds, among others, that property was taken without due process of law and this reason was based on the point that the salary of the petitioner was his property.